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BEFORE THE ARIZONA CORPORATION COMMISSION

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**COMMISSIONERS**

JEFF HATCH-MILLER – Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG

2006 AUG -3 P 12: 58

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. T-03632A-06-0091  
DIECA COMMUNICATIONS DBA COVAD ) T-03406A-06-0091  
COMMUNICATIONS COMPANY, ESCHELON ) T-03267A-06-0091  
TELECOM OF ARIZONA, INC., MCLEODUSA ) T-03432A-06-0091  
TELECOMMUNICATIONS SERVICES, INC., ) T-04302A-06-0091  
MOUNTAIN TELECOMMUNICATIONS, INC., ) T-01051B-06-0091  
XO COMMUNICATIONS SERVICES, INC AND )  
QWEST CORPORATION REQUEST FOR )  
COMMISSION PROCESS TO ADDRESS KEY )  
UNE ISSUES ARISING FROM TRIENNIAL )  
REVIEW REMAND ORDER, INCLUDING )  
APPROVAL OF QWEST WIRE CENTER LISTS. )

Arizona Corporation Commission  
**DOCKETED**

AUG -3 2006

DOCKETED BY

*MR*

**SECOND SUPPLEMENT TO MOTION TO COMPEL**

DIECA Communications, Inc., doing business as Covad Communications Company and Mountain Telecommunications, Inc, on behalf of themselves and Eschelon Telecom of Arizona, Inc., McLeodUSA Telecommunications Services, Inc. and XO Communications Services, Inc., ("Joint Claimants") hereby further supplement their Motion to Compel filed July 26, 2006. Judge Adams of the Public Utility Commission of Colorado ("Colorado PUC") issued his ruling on the discoverability of the same data sought from Qwest in Colorado (wire center data from Qwest's December 2004 ARMIS Report submitted to the FCC in April 2005). Judge Adams granted the Joint Claimants Motion to Compel filed July 10, 2006. He ruled that the 2004 line count data sought is reasonably calculated to lead to the discovery of admissible evidence as to the data the Colorado PUC should rely upon to develop non-impairment status. A copy of the order is attached

1 to this pleading. Joint Claimants request that the Administrative Law Judge take administrative  
2 notice of Judge Adam's decision in considering Joint Claimant's Prayer for Relief in their Motion  
3 to Compel. Joint Claimants believe they seek information relevant and discoverable before the  
4 Commission, as explained in their Motion to Compel.

5  
6 RESPECTFULLY SUBMITTED this 3rd day of August 2006.

7 ROSHKA DEWULF & PATTEN, PLC

8  
9 By  

10 Michael W. Patten

11 One Arizona Center

12 400 East Van Buren Street, Suite 800

13 Phoenix, Arizona 85004

14 Attorneys for Covad Communications Company and  
15 Mountain Telecommunications, Inc

16 Also authorized to sign on behalf of: Eschelon Telecom of  
17 Arizona, Inc., McLeodUSA Telecommunications Services,  
18 Inc. and XO Communications Services, Inc.

19 Original and 23 copies of the foregoing  
20 filed this 3rd day of August 2006 with:

21 Docket Control  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007

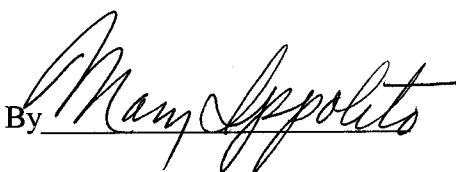
25 Copy of the foregoing hand-delivered/mailed  
26 this 3rd day of August 2006 to:

27 Dwight Nodes, Esq.  
Assistant Chief Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

**ROSHKA DeWULF & PATTEN, PLC**

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Qwest Corporation  
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Phoenix, Arizona 85012

By 

Decision No. R06-0889-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 06M-080T

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IN THE MATTER OF THE JOINT COMPETITIVE LOCAL EXCHANGE CARRIERS'  
REQUEST REGARDING THE STATUS OF IMPAIRMENT IN QWEST CORPORATION'S  
WIRE CENTERS AND THE APPLICABILITY OF THE FEDERAL COMMUNICATIONS  
COMMISSION'S TRIENNIAL REVIEW REMAND ORDER.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
G. HARRIS ADAMS  
GRANTING MOTION TO COMPEL**

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Mailed Date: July 31, 2006

**I. STATEMENT**

1. A procedural schedule was adopted to govern this proceeding in Decision No. R06-0406-I. The schedule was subsequently modified by Decision No. R06-0830-I.

2. On July 10, 2006, the Joint CLECs' Motion to Compel Qwest to Answer Data Request No. 47 was filed by Covad Communications Company; Eschelon Telecom of Oregon, Inc.; McLeodUSA Telecommunications Services, Inc.; and XO Communications Services, Inc. (Joint CLECs).

3. On July 17, 2006, Qwest Corporation's (Qwest) Response in Opposition to the Joint CLECs' Motion to Compel was filed.

4. In accordance with Decision No. R06-0406-I, Qwest and the Joint CLECs filed statements of issues for hearing. All parties also filed responses to the lists of issues identified.

5. It is noteworthy that Commission Staff (Staff) specifically identified the following issue: "The clear identification of the criteria for and source(s) of data to be relied upon in developing the status of non-impairment." No party opposed or responded to Staff's stated issue.

6. The data relied upon to develop non-impairment status is a relevant issue to be determined at hearing as identified by Staff.

7. The Joint CLECs propounded discovery upon Qwest seeking line count data updated through March 2005, or though December 31, 2004 if such data was not available.

8. Qwest effectively objected to the requested discovery based upon its advocacy position as to the hearing issue identified in paragraph 5 above. Qwest argues that December 2003 is the only data to be relied upon to develop non-impairment status. Thus, any other data is not relevant to the proceeding.

9. Qwest seeks to preclude discovery of information reasonably calculated to lead to the discovery of admissible evidence regarding the issue identified by Staff.

10. Discovery regarding the 2004 line count data is reasonably calculated to lead to the discovery of admissible evidence as to the data the Commission should rely upon to develop non-impairment status.

## **II. ORDER**

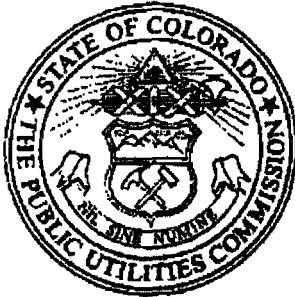
### **A. It Is Ordered That:**

1. The Joint CLECs' Motion to Compel Qwest to Answer Data Request No. 47, filed by Covad Communications Company; Eschelon Telecom of Oregon, Inc.; McLeodUSA Telecommunications Services, Inc.; and XO Communications Services, Inc., is granted.

2. Qwest Corporation shall respond to Data Request No. 47 as soon as practicable, and in any event, within ten days of the effective date of this Order.

3. This Order is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

G. HARRIS ADAMS

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director